IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

CRP.No. 1780 of 2001()

AGAINST THE ORDER DATED 29/03/2000 IN IA. 4389 /1999 IN OS.2095/1990 of II ADDL.M.C.,TRIVANDRUM

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REVN. PETITIONER:PETITIONER/PLAINTIFF

State Bank of Travancore, Vazhuthakkad Branch, Thiruvananthapuram

BY ADV. SRI.R.S.KALKURA

RESPONDENTS: COUNTER PETITIONERS/DEFENDANTS

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1. S.V.Trading Company, T.C. 37/1782, South Ramport Street, Fort, Thiruvananthapuram.

2. A.Venkita Subramonian, Proprietor, S.V.Trading Company, T.C.37/1782, South Ramport Street, Fort, Thiruvananthapuram.

3. Alice George, W/o. George Joseph, Deputy Superintendent of Police, Crime Branch, Thiruvananthapuram.

4. Sri. George Joseph, Deputy Superintendent of Police, Crime Branch, Thiruvananthapuram.

BY ADV. SRI.C.E.UNNIKRISHNAN for R3 R4

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 12/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

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C.R.P.No.1780 of 2001

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Dated this the 12th day of September, 2007.

ORDER

Revision petitioner - Bank had instituted a suit for realisation of amount. The suit was dismissed for default. Thereafter the Bank filed an application for restoring the suit, which was dismissed. Thereafter, since the plaintiff was not present, the restoration application was again dismissed. Instead of filing an application for restoration of I.A.No.10 of 1994, the Bank chose to file an application to review the order dismissing the petition for default. The court below found that there is no error apparent on the face of the record or other ingredients so as to attract review under Section 47 of Code of Civil Procedure and therefore dismissed the review application. So as the matter stands today, restoration application, I.A.No.10 of 1994 filed by the Bank stands dismissed for default. It can be seen that the Bank has not been grossly negligent in prosecuting the matter. It is true that there had been dismissal for default, but all along

the Bank had been attempting to get the matter restored one way or the other. But unfortunately, it did not end in success.

2. Therefore, I feel that this Civil Revision Petition can be disposed of by directing the revision petitioner to move a fresh application for restoration of I.A.No.10 of 1994, which was dismissed for default and after notice to the contesting respondents. Of course, there will be delay in filing the said application. Since the matter had been pending in this Court for such a long time and there was earnestness on the part of the Bank to prosecute the matter, I direct the court below to consider the delay in the proposed application sympathetically then consider that application and decide whether I.A.No.10 of 1994 is to be restored or not.

Civil Revision Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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